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UNCLAS SECTION 01 OF 04 STATE 087524

SENSITIVE
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TAGS: KTIP PREL KCRM KWMN PHUM SMIG HK
SUBJECT: HONG KONG: TIP TIER 2 ACTION PLAN (2009-2010)

REF: A. 2008 STATE 132759
 1B. 2007 STATE 150188
 1C. 2009 STATE 005577
 1D. 2009 STATE 62182

11. (U) This is an action request (see paras 2-4).

12. (SBU) Begin action request: Drawing from points in para 6, Post is requested to approach appropriate host government officials to highlight the United States' strong commitment to continue to work with the Government of Hong Kong to help strengthen its efforts to combat and prevent trafficking in persons (TIP) and to assist victims. Post is requested to convey the recommendations in para 7 as a non-paper and draw from the talking points in para 6 to explain to the host government that efforts to address the first set of recommendations will help the government maintain a Tier 2 ranking and avoid a downgrade to Tier 2 Watch List or Tier 3 in the upcoming 2010 TIP Report. Additional recommendations are included in para 7 to aid the host government in making progress in its overall anti-TIP efforts. The notes indicated in brackets in the action plan are for post's background only and may be omitted from the non-paper. The &Implementation Guidelines8 referenced in the action plan notes are contained in reftel B. These guidelines provide guidance to posts on how the Minimum Standards of the Trafficking Victims Protection Act, as amended, (TVPA) are implemented, and have been cleared by regional bureaus.

13. (SBU) Action request continued: Post is further requested to emphasize to the Government of Hong Kong that the first set of recommendations is designed to help the government show evidence of increasing efforts to combat TIP since the beginning of the reporting period in April 2009 and thus avoid a tier ranking downgrade. The longer set of other recommendations show the government steps that, if taken, could result in an elevation to Tier 1. Sustained and significant anti-trafficking efforts by the government throughout the year will remain the basis for determining next year's tier placement. We will reconsider the government's tier placement when we conduct our annual full assessment for the April 2009 to March 2010 reporting period next spring.

14. (SBU) In preparation for the 2010 TIP Report, the Department is asking posts to work with host governments throughout the year to collect as many statistics as possible on law enforcement actions and judicial proceedings related to TIP crimes; specifically the Department requests data on investigations, prosecutions, convictions, and sentences (e.g., fines, probation, length of prison sentences imposed, asset seizure information when available). Whether a government collects and provides this data consistent with the government's capacity to obtain such data is considered in determining whether the government qualifies for Tier 1. Law enforcement statistics, when available, are a good way of highlighting how well a government enforced its law and demonstrates strengths and weaknesses in various approaches.

Please note that host governments and embassies must interpret data terms provided by host governments such as indictments, charges, cases disposed, cases submitted for prosecution, etc., to ensure that they fit into one of the following categories: investigations, prosecutions, convictions, or sentences.

The Department cannot accept "trafficking-related" law enforcement statistics (e.g., statistics on prostitution or smuggling offenses) because their direct correlation to trafficking crimes is not clear. The Department will accept only law enforcement data that fall into the following categories: (1) investigations, prosecutions, convictions, and sentences for offenses that are explicitly defined as trafficking; and (2) investigations, prosecutions, convictions, and sentences for offenses that are not defined explicitly as trafficking but in which the competent law enforcement or judicial authority has specific evidence indicating that the defendant was involved in trafficking.

15. (SBU) Please keep in mind the TIP Report measures host government efforts. In order for anti-trafficking activities financed or conducted principally by parties outside the government to be considered for tier placement purposes, Post needs to demonstrate a concrete role or tangible value-added by a host government in such activities carried out by NGOs, international organizations, or posts.

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16. (U) Background Points:

Begin talking points:

-- The Obama Administration views the fight against human trafficking, both at home and abroad, as a critical piece of our foreign policy agenda. We are committed to making progress on this issue in the months ahead by working closely with partners in every country to encourage their anti-trafficking efforts, as well as seeking out additional ways to improve our own.

-- Human trafficking is a global phenomenon. It touches every country in the world, including the United States, and we have a responsibility to fight it just as our partners do. The United States funds anti-trafficking programs in nearly 70 countries, as well as 42 domestic task forces that bring state and local authorities together with NGOs to combat trafficking within U.S. borders. But there is much more to do, and the United States is committed to working hard during the next year to improve its record against TIP.

-- In addition to setting forth a framework for the United States, domestic efforts to combat human trafficking, the U.S. Government's Trafficking Victims Protection Act requires the State Department to submit an annual report to Congress on the status of foreign governments, efforts to combat trafficking in persons. Pursuant to the Trafficking Victims Protection Reauthorization Act of 2003 (TVPR), the Department places each country in the 2009 TIP Report onto one of three tier lists. Placement is based more on the extent of government action to combat trafficking than on the size of the problem, although that is also an important factor. The Department first evaluates whether the government fully complies with the TVPA's minimum standards for the elimination of trafficking, which are detailed on pages 314-315 of the 2009 TIP Report, and on the State Department's website. Governments that fully comply are placed on Tier 1. For other governments, the Department considers the extent of efforts to reach compliance.

-- Governments that are making significant efforts to meet the minimum standards are placed on Tier 2. Pursuant to the TVPR, the State Department also created a special category known as Tier 2 Watch List for Tier 2 countries that do not show increasing efforts from the previous year, have a very

significant number of victims, or whose Tier 2 rating is based on commitments to take additional steps over the next year. Governments that do not fully comply with the minimum standards and are not making significant efforts to do so are placed on Tier 3.

-- Hong Kong was placed on Tier 2 in this year's Report because it does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.

-- We offer the following recommended actions (Action Plan for the Short-Term) to tackle specific concerns highlighted in the 2009 TIP Report. We believe these to be within the reasonable ability of your government to fulfill in the near-term and encourage you to take prompt action to address them. We will reconsider a government's tier placement when we conduct our annual full assessment for the 2009-2010 reporting period next spring. Prompt, appropriate, and significant actions will lead to a more favorable tier placement; conversely, failure to address the issues mentioned above may lead to a Tier 2 Watch List or Tier 3 placement.

-- We would welcome the Government of Hong Kong's comments on these recommendations and any other ideas you might have to advance our common struggle against trafficking in persons.

-- In addition to the short list of recommendations corresponding to our concerns that resulted in your government's placement on Tier 2 in the 2009 TIP Report, we offer additional suggestions of actions that your government may choose to take (Action Plan for the Long Term). These further measures would be in addition to Hong Kong's continuation of its current efforts to combat trafficking in persons.

End talking points.

¶7. (SBU) Begin Action Plan:

¶A. Action Plan for the Short-Term: The following are

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recommended measures for action during the 2009-2010 reporting period (to avoid a tier ranking downgrade):

¶1. Through training and revision of standard procedures, intensify efforts to integrate trafficking in persons concerns into investigations of illegal immigration, labor violations and crimes including involuntary servitude of foreign domestic workers, and commercial sex offenses to increase TIP prosecutions

-- Punishments limited to administrative penalties such as bans on future hiring, fines, and payment of back-wages to victims are not considered sufficiently stringent to deter trafficking in persons crimes.

¶2. Create and implement formal procedures to proactively identify victims of trafficking among vulnerable groups, such as women and girls in the commercial sex industry and persons arrested for immigration violations, and refer them to adequate victim services, such as shelters operated by NGOs.

¶3. Institute procedures to ensure that victims are not arrested, incarcerated, or otherwise punished for acts committed as a direct result of being trafficked. Ensure that standards exist to make foreign victims of trafficking aware of their options regarding relief from removal from Hong Kong, including printed information in key languages.

-- Trafficking victims should not be subjected to deportations or forced returns without safeguards or other measures to reduce the risk of hardship, retribution, or re-trafficking. At a minimum, destination countries should contact a

competent governmental body, NGO, or IO in relevant source country to ensure that trafficked persons who return to their country of origin are provided with assistance and support necessary to their well-being.

¶4. Conduct a visible public awareness campaign that educates clients of the sex trade, aimed at reducing demand for commercial sex acts.

¶B. Action Plan for the Long Term: The following are other recommended measures, which would strengthen Hong Kong's overall anti-trafficking program:

Prosecution

--Dedicate increased resources to the investigation and prosecution of human trafficking cases, such as dedicated anti-trafficking investigators and prosecutors, and/or increased funding levels to anti-trafficking law enforcement entities.

--Strengthen collaboration with diplomatic missions of suspected trafficking source countries to identify possible trafficking cases for investigation by Hong Kong police.

--Continue to work closely with NGO's assisting in the identification of human traffickers in order to prosecute more offenders of trafficking.

Protection

--Increase activities to train and sensitize law enforcement officers, judges, prosecutors, attorneys, and other government officials about human trafficking, the proactive identification of trafficking victims, victim referral procedures, and the effective and victim-sensitive handling of both sex and labor trafficking cases.

--Enforce existing Hong Kong laws on holding travel documents and other identification as collateral on debts.

Ensure officers investigating TIP or related offenses are aware of options under Hong Kong law to provide protection to victims of trafficking, including in particular to victims participating in the prosecution of their traffickers, who may be at risk of retaliation or retribution by their traffickers.

-- Engage and cooperate closely with governments of source countries/territories on the safe repatriation of trafficking victims and the prosecution of their traffickers.

Prevention

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-- Have senior government officials use public forums to address the human trafficking problem to educate and warn the general public about trafficking.

-- Work closely with non-governmental organizations, such as migrant worker groups, and international organizations on trafficking in persons.

End non-paper.

¶8. (U) The Department appreciates Post's efforts to address trafficking in persons issues.

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